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September 26, 2007

VIA FACSIMILE (914.390.4085)

Honorable Charles L. Brieant
United States District Judge
United States Courthouse
300 Quarropas St., Room 275
White Plains, NY 10601

MEMO ENDORSED

*Adjourned to 11/30/07,
9:00 AM -
By Order
Sept. 27, 2007
Charles L. Brieant
4503*

Re: Progressive Northern Insurance Co. v. Beltempo
Civil Action No.: 7:07-cv-04033-CLB
Our File No.: 2563.0072

Dear Judge Brieant:

Upon the advice of your deputy, please accept this letter request of Progressive Northern Insurance Company ("Progressive") for a 60 day adjournment of the case management conference in the above-referenced matter, which is scheduled presently for Friday, September 28, 2007. Progressive brought this action seeking a judgment that its policy provides no liability coverage for a third-party claim brought against its named insured, Pamjam, Inc., in a bodily injury action that is pending in the Supreme Court of New York, Orange County. Progressive determined recently that Pamjam is insured under an employers' liability policy issued by the New York State Insurance Fund, and Progressive had been in discussions with the Fund regarding assumption of Pamjam's defense in the underlying action (which would have obviated the need for Progressive's declaratory judgment action at this time). Progressive was advised just this week that the Fund is denying coverage to Pamjam. We are also in discussion with defendant Dana's Pro Trucking, Inc., regarding its counterclaim in the present action for coverage under the Progressive policy. Finally, while it appears that Pamjam has been served with the complaint in this declaratory judgment action, the Court's docket sheet does not indicate any appearance yet by an attorney of record on Pamjam's behalf.

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We therefore respectfully request an adjournment of the case management conference, to afford an opportunity to resolve some of these issues. We have received the consent of all counsel of record to this adjournment. Thank you for your consideration in this matter.

Respectfully,

SCHINDEL, FARMAN, LIPSIUS,
GARDNER & RABINOVICH, LLP



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cc: (via Facsimile)

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